

REMARKS

Amendments

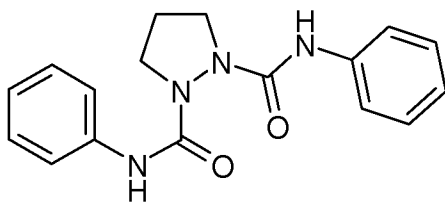
Claims 1 and 10 are amended to delete reference to derivatives and solvates. Claims 4 and 17 are amended to correct typographical errors. New claims 27-28 are directed to treatment of certain diseases/conditions. See, e.g., claim 16.

Withdrawn Claims

Applicants again traverse the Restriction Requirement for the reasons of record. The arguments presented in the Office Action of October 28, 2008 in support of the Restriction do not address the fact that the instant application is a US national phase application of PCT/EP2004/002407, and the Rules for Restriction are governed by PCT Rules 13.1 and 13.2 and Annex B of the PCT Guidelines (or the PCT International Search and Preliminary Examination Guidelines issued in 2004). The arguments in the Office Action do not explain why the Restriction is being maintained despite that Annex B, section (e) (ISPE 10.12) states that an independent product claim, an independent process claim specially adapted to manufacture the product, and an independent claim for use of the product is a permissible combination, i.e., **does not lack unity of invention under PCT Rule 13.2.**

The Restriction fails to present a rationale as to why the claims of Groups I-III, especially in light of Annex B section (e), do not satisfy unity of invention pursuant to PCT Rules 13.1 and 13.2. If the Restriction is maintained as to Groups I-III, **applicants specifically request that the Examiner clarify why the claims of Groups I-III do not constitute a permissible combination of claims as set forth in Annex B section (e).**

Additionally, the claims of Groups I-III are linked by a much larger core structure than that depicted at the bottom of page 3 of the Office Action of June 24, 2008. Groups I-III are linked by the compounds of Formula I which exhibit the following core structure:



Thus, in view of the above remarks, it is respectfully submitted that the Restriction fails to set for sufficient reasons why Groups II-III are not being examined with elected Group I. Applicants again respectfully request that claims 11-13, 16 and 18 be examined together with the claims of elected Group I.

In any event, it is respectfully submitted that compound claims 1-10, 14, 15, and 17 are in condition for allowance. Thus, rejoinder of the respective process of making and process of using claims be rejoined pursuant to MPEP 821.04.

Rejection under 35 USC 112, first paragraph

Claim 1 and 10 are rejected as allegedly lacking enablement with respect to the terms “derivatives” and “solvates.” Applicants respectfully disagree.

Applicants’ specification describes prodrug derivatives at page 8, and the concept of solvates is well known to one ordinary skill in the art. Furthermore, in light of the knowledge within the art and the guidance provided by applicants’ disclosure the synthesis of such prodrug derivatives and solvates requires no more than routine experimentation.

In any event, for purposes of furthering prosecution, claims 1 and 10 are amended above to delete derivatives and solvates. Withdrawal of the rejection is respectfully requested.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

/Brion P. Heaney/

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